

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed April 20, 2007. At the time of the Final Office Action, Claims 15-19 and 21-32 were pending in this Application. Claims 15-19 and 21-32 were rejected. Claims 15 and 30 has been amended to correct an informality. Claims 19 and 32 have been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Priority

Applicants enclose a Supplemental Application Data Sheet herewith deleting the claim to priority to GB 0208667.6.

Claim Objection

Claim 30 was object to because of an informality. Claim 30 has been amended to address this objection.

Rejections under 35 U.S.C. § 112

Claim 32 was rejected by the Examiner under 35 U.S.C. § 112, second paragraph. Claim 32 has been cancelled without prejudice or disclaimer.

Rejections under 35 U.S.C. § 102

Claims 21-23, 25-28, 30 and 31 were rejected by the Examiner under 35 U.S.C. § 102(e) as being anticipated by Howell et al. (U.S. Patent No. 5,674,224). Applicant respectfully submits that the art cited as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Independent Claim 21 recites the steps of:

locating a graft loop in the femoral tunnel in such a manner that an open face of the loop faces an intersection where the femoral tunnel intersects the transverse tunnel

passing at least a part of said nose section of said transverse suspension device through the graft loop via the transverse tunnel until said nose section contacts a recess formed in an opposite wall of the femoral tunnel wherein said abutment surface urges said graft against said opposite wall and such that said ligament is supported by said head section.

Emphasis added. The office action contends that Howell teaches the step of “locating a graft loop in the femoral tunnel in such a manner that an open face of the loop faces an intersection where the femoral tunnel intersects the transverse tunnel FIGS 11-12.” However, Applicants note the Howell instead requires a separate step of inserting an elongate suture passing device 130 to position a monofilament suture 128 in the femoral tunnel 28. (Fig. 11 and Col. 7, lines 15-20). The screw device is then advanced under the suture loop and set. See Col. 7, lines 20-28. The suture passing device 128 is next removed and the suture that is looped over the screw device is then used to pass the graft bundle along the path of the suture. See Col. 7, line 33-42 and Fig. 12.

Of additional note, the graft bundle of Howell does not appear to be fixed with respect to the screw device but is instead fixed at the tibial end by fastener 12. See Col. 7, lines 61-64.

Accordingly, Applicants submit that Howell cannot anticipate Claim 21 because Howell does not disclose passing the nose section through the graft loop as recited. Additionally, Applicants submit that the “annular abutment surface” cited by the Examiner would not act to urge the graft against the opposite wall, both because the angled surface of Howell would tend to push the graft over the body section and because the method of Howell requires placement of the screw device prior to passing of the graft over the screw device using a suture.

Additionally, with respect to Claim 30, the office action contends that angle of the cited annular abutment is about 90 degrees. Applicants note that this is clearly incorrect and that the angle in question appears to be about 45 degrees.

For at least these reasons Howell cannot anticipate Independent Claim 21 or Claim 30. Applicants request reconsideration, withdrawal of the rejections under §102 and full allowance of Claims 21, 30 and Claims 22-23, 25-28 and 31 which depend therefrom.

Rejections under 35 U.S.C. §103

Claims 15-19 were rejected under 35 U.S.C. §103(a) as being unpatentable over Chervitz et al. (U.S. Patent No. 6,499,486). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The office action contend that Chervitz discloses, among other steps, that the "graft is urged against the opposite side wall as the head is advanced into the recess." Applicants traverse and note that the cross pin 60 disclosed by Chervitz does not include any surface that would act to urge a graft against the opposite wall of the tibial tunnel as recited. Additionally, the Clark also does not teach this step.

Because Chervitz and Clark do not teach each and every recited step, the proposed combination cannot render obvious Claim 15 or Claims 16-18 that depend therefrom.

Claim 24 was rejected under 35 U.S.C. §103(a) as being unpatentable over Howell. Claim 29 was rejected under 35 U.S.C. §103(a) as being unpatentable over Howell in view of Clark. For the reasons discussed above neither Howell nor Clark teaches urging the graft against the opposite wall as recited in Claims 24 and 29.

Applicants request reconsideration, withdrawal of the rejections under §103 and full allowance of Claims 15-19, 24 and 29.

Information Disclosure Statement

Applicants enclose an Information Disclosure Statement and PTO Form 1449, with copies of the references for the Examiner's review and consideration.

Request for Continued Examination (RCE)

Applicants enclose a Request for Continued Examination (RCE) Transmittal, and hereby authorize the Commissioner to charge \$790.00 to Deposit Account No. 50-0359 of ArthroCare Corporation.

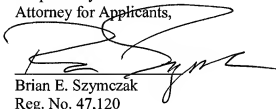
CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-0359 of ArthroCare Corporation in order to effectuate this filing.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.391.3961.

Respectfully submitted
Attorney for Applicants,



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Date:

10/22/2007

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- Enclosures: 1) Request for Continued Examination (RCE) Transmittal
2) An Information Disclosure Statement and PTO Form 1449,
with copies of the references
3) A Supplemental Application Data Sheet